

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

C.R.No.55 of 2007

DATE OF ORDER: 11.1.2007

Veero and Another

...Petitioner(s)

Versus

Suba Singh and Others

....Respondent(s)

CORUM : HON'BLE MR. JUSTICE M.M. AGGARWAL

.*.*.*.

Present: Mr. J.S. Gill, Advocate.

M.M. AGGARWAL,J

This is petition against order dated 6.9.2006 passed by Civil Judge(Sr. Division), Patti whereby request of defendants No.3 & 4 i.e Kulwant Singh and Nishal Singh for leading secondary evidence of will dated 31.3.2001, stated to have been executed by Shubeg Singh, was allowed.

Counsel for the petitioners argues that the will dated 31.3.2001 was unregistered will. It was very well in the revenue record of mutation No.1290 and that the petitioners had got it compared from handwriting expert and then there was report that the thumb impressions of Shubeg Singh on this will did not tally. Counsel for the petitioners further argues

that after this, respondents No.3 & 4 got this original will intentionally misplaced and then made an application for secondary evidence. Counsel for the petitioners points out that in fact respondents No.3 & 4 are accused in a criminal complaint regarding this very will and had been summoned. He argues that in the circumstances, request for secondary evidence of the will dated 31.3.2001 could not be allowed. It is pointed out that regarding loss of the will, no FIR or DDR was ever lodged anywhere.

From the order, it would come out that the contention of defendants No.3 & 4 had been that the will dated 31.3.2001 had been lost by the revenue authority.

The trial Court, under those circumstances, was to allow the application for leading secondary evidence. As to what value is to be attached to that evidence can be seen only after the evidence is led.

I do not find any good ground to interfere with the order dated 6.9.2006 passed by Civil Judge(Sr. Division), Patti. This petition is dismissed with the observation that the petitioners shall be at liberty to show or prove their handwriting expert's report copy Annexure P-3 and take all pleas available in the trial Court.

January 11, 2006
manoj

(M.M. AGGARWAL)
JUDGE